

Attorney Docket No. 102491-100

U.S. Serial No. 10/777,442

Page 7 of 10

REMARKS

In the present Office Action, claims 1, 3-5, 7-9, 11-15, 17-19, 22-23 and 26-28 were examined. Claims 1, 3-5, 7-9, 11-15, 17-19, 22-23 and 26-28 are rejected. No claims are objected to or allowed.

By this Amendment, claims 1 and 15 have been amended and claims 3, 7 and 17 have been canceled. No new claims have been added. Accordingly, claims 1, 4-5, 8-9, 11-15, 18-19, 22-23 and 26-28 are presented for further examination. No new matter has been added. By this Amendment, claims 1, 4-5, 8-9, 11-15, 18-19, 22-23 and 26-28 are believed to be in condition for allowance.

Applicant's invention, as embodied in amended claims 1 and 15, is drawn to a traffic noise barrier wall. Two vertically mounted posts each include a post slot to receive a sheet of soundproofing material. Frequently, the soundproofing material is retrofit, for example, wooden or concrete soundproofing material may be replaced with significantly thinner acrylic sheet. To avoid a necessity of changing the vertically mounted posts with posts having a reduced slot width, Applicants include a frame fastened to at least some edges of the soundproofing material. This frame includes a base portion extending along a peripheral side of the soundproofing sheet and first and second flanges projecting outward from the base portion on opposite sides of the sheet with the base portion, the first flange and the second flange being formed from a single material.

The combination of the sheet thickness and the area occupied by the projecting flanges defines a thickness that is substantially greater than the thickness of the soundproofing sheet but less than the width of the slots of the vertically mounted posts. "Substantially" is defined in Applicants' specification at Page 6, line 10 as, "the thickness of the sheet 54 is less than 50% of the maximum width of the slots 18, and more preferably less than 30% of the thickness of the slots 18."

Attorney Docket No. 102491-100
U.S. Serial No. 10/777,442
Page 8 of 10

There is nothing in the prior art of record in the present application to teach or suggest such a combination of a soundproofing sheet and peripheral frame. Applicant's claims, as amended, should be allowed over the combination of cited references.

Applicants incorporated Claim 3 into Claim 1 and Claim 17 into Claim 15. Claims 3 and 17 were rejected under 35 U.S.C. 102(b) as anticipated by Christensen (US5,984,044).

The Christensen patent discloses a relatively thin sleeve 18 that protects the edges of an acoustic panel 16. The combination of acoustic panel 16 and sleeve 18 is about equivalent to the width of slot 12. As may be seen in both Figures 3 and 4 of US 5,984,044, the sheet 16 has a thickness that is only very slightly less than the width of the slot. It would appear that the sheet 16 was manufactured for the slot 12. There is nothing in U.S. Patent No. 5,984,044 to teach or suggest a frame for a retrofitting sheet where the sheet has a thickness that is substantially less than that of the first slot width and the second slot width as claimed in Applicants' Claims 1 and 15. Applicants' Claim 1 and 15 should be allowed over the Christensen patent. As the remaining claims depend from and further limit and define Claims 1 and 15, they should likewise be in condition for allowance.

Applicants agree with the Examiner's characterization of the Christensen sheet (16) as having a thickness less than the first slot width as shown in Figures 4 and 4A of the Christensen patent and recited in the present Office Action at page 3, lines 5 and 6. However, the sheet thickness is only very slightly less than the slot width and not substantially less than as in Applicants' amended Claims 1 and 15. As recited in Applicants' specification at page 6, line 10, substantially less means that the thickness of the sheet is at least less than 50% of the maximum width of the slot and preferably less than 30% of the thickness of the slot. There is nothing in Christensen to teach or suggest a frame for such a substantially thinner sheet. Applicants' claims should be allowed over the Christensen reference.

The Examiner objected to Claim 7, asserting that Claim 7 is dependent from Claim 1 and Claim 1 defines the first and second flanges and the base portion being formed from a single material. The Examiner asserted that Claim 7 then changes the scope by forming the elements

Attorney Docket No. 102491-100
U.S. Serial No. 10/777,442
Page 9 of 10

from separate materials. Applicants have cancelled Claim 7 without prejudice or disclaimer rendering the objection moot.

The remaining claims pending in this patent application depend from and further limit and define either Claim 1 or Claim 15. As the independent claims are now believed to be in condition for allowance, the dependent claims should likewise be allowed.

Notice of Appeal

In the event that a Final Rejection of the claims is sustained, Applicants enclose a Notice of Appeal.

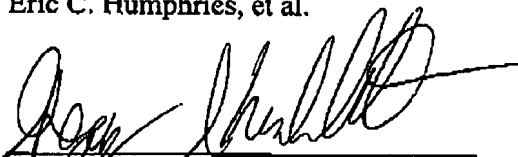
Notwithstanding the Notice of Appeal, Applicants submit that none of the references, alone or in combination, anticipate or make obvious the invention as presently claimed and that the application is now in condition for allowance. The amendments to Claims 1 and 15 incorporate previously examined Claims 3 and 17 and do not require additional searching on the part of the Examiner. Further, this amendment places the claims in condition for allowance, or in the alternative, in better conditions for appeal and is proper under the provisions of 37 CFR 1.116. Therefore, Applicants respectfully request entry of this amendment, reconsideration and further examination of the application and the Examiner is respectfully requested to take such proper actions so that a patent will issue herefrom as soon as possible.

If the Examiner has any questions or believes that a discussion with Applicants' attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

Attorney Docket No. 102491-100
U.S. Serial No. 10/777,442
Page 10 of 10

Please apply any credits or charge any deficiencies to our Deposit Account No. 23-1665.

Respectfully submitted,
Eric C. Humphries, et al.



Gregory S. Rosenblatt
Reg. No. 32,489

Date: November 6, 2007

CONTACT INFORMATION:
WIGGIN & DANA LLP
One Century Tower
New Haven, CT 06508-1832
Telephone: (203) 498-4566
Facsimile: (203) 782-2889
Email: grosenblatt@wiggin.com

117725151651044.2